HON'BLE SRI JUSTICE L. NARASIMHA REDDY

WRIT PETITION No.15729 of 2007

Date: 03.08.2007

Between :

M/s. Sri Kumara Swami Marine Exports Pvt. Ltd.

.....Petitioner

And

Special Cadre Dy.Registrar and others.

.....Respondents.

HON'BLE SRI JUSTICE L. NARASIMHA REDDY

WRIT PETITION No.15729 of 2007

ORDER :

The petitioner challenges an order, dated 23.06.2007, passed by the first respondent in I.A.No.40 of 2007 in A.R.C.No.13/99/R1.

The second respondent approached the first respondent under Section 71 of the A.P. Co-operative Societies Act, 1964 (for short 'the Act'), for issuance of a recovery certificate against M/s. Sri Kumara Swamy Aqua Products Private Limited (for short 'the principal borrower') and certain others. It was alleged that it availed a loan of about Rs.3.00 crores and there was default in payment of the same. Claim was made for about Rs.4.85 crores. The second respondent also filed I.A.No.40 of 2007 for attachment of the amount, which is said to be in deposit towards compensation for the lands acquired from the principal borrower as well as the Managing Director of that company. On this application, the first respondent passed the impugned order, directing the attachment of

Rs.99,92,415/- available with the revenue authorities towards compensation payable under the Land Acquisition Act.

The petitioner contends that the compensation payable for the lands held by the principal borrower, even according to the application submitted by the second respondent was Rs.61,10,134/- and the balance of Rs.38,82,281/- is payable to it. It is urged that the petitioner has absolutely nothing to do with the loan account and there was no basis for the first respondent to attach the said amount.

On behalf of the second respondent, a counter affidavit is filed. It is stated that the amount of Rs.61,10,134/- is payable to the principal borrower, whereas the balance was deposited to the credit of the Managing Director of that very company and in that view of the mater, no exception can be taken to it. It is urged that the petitioner can file an application for necessary modification and if necessary, file an appeal and that the writ petition is not maintainable.

Heard Sri P.Krishna Reddy, the learned counsel appearing for the petitioner and Sri Rama Krishna Rao, the learned counsel for the second respondent.

The preliminary objection raised as to the maintainability of the writ petition is to be dealt with first. It is no doubt true that what is challenged in this writ petition is an *ad interim* order and affected parties can approach the Court by pleading their case. That facility is available only to the persons or parties, who are already arrayed in the cause title in the proceedings. Admittedly, the petitioner herein is not a party to the proceedings. Therefore, the objection cannot be sustained.

The second respondent initiated proceedings for recovery of certain amount borrowed by the principal borrower. No relief is claimed against the petitioner. Even from a perusal of the affidavit filed in support of the I.A., it is evident that while the amount of Rs.61,10,134/- was deposited to the credit of principal borrower, the balance of Rs.38,82,281/- was awarded in favour of "Sri Vemareddy Sundara Rami Reddy S/o. Ramachandra Reddy, Managing Director, Marines Transport Private Limited". But, this statement is not correct. The record discloses that the amount was deposited to the credit of "Marine Transport Private Limited, represented by its Managing Director". The mere fact that the Managing Director of the said company as well as the principal borrower is one and the same, does not constitute the

basis to attach the amount payable to the petitioner herein.

Therefore, the writ petition is allowed and the order of attachment, dated 23.06.2007, passed by the first respondent in I.A.No.40 of 2007, is restricted to a sum of Rs.61,10,134/- payable to the principal borrower i.e., M/s. Sri Kumara Swamy Aqua Products Private Limited and the one as regards the amount payable to the petitioner is set aside. There shall be no order as to costs.

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03.08.2007

JSU